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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/543,049 04/05/00 POMERANCE

B BRENDA S

024259  
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NEW YORK NY 10019

TM02/1019

EXAMINER

HAYES, J

ART UNIT

PAPER NUMBER

2161

DATE MAILED:

10/19/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/543,049

Applicant(s)

POMERANCE, BRENDA

Examiner

John W Hayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21, 24-37 and 40-45 is/are rejected.
- 7) ☒ Claim(s) 22, 23, 38 and 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 4, 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## DETAILED ACTION

### *Drawings*

1. The drawings filed on 05 April 2000 are subject to correction of the informalities indicated on the attached "Notice of Draftperson's Patent Drawing Review," PTO-948. In order to avoid abandonment of this application, correction is required.
2. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

3. The disclosure is objected to because of the following informalities:
  - Page 4, line 14; the reference character for the AADR system should be changed from "70" to "60" to be consistent with the drawings.
  - Page 5, line 5; the reference to the co-pending application appears to be incorrect. Serial No. 09/501,197 does not correspond to an application by the same inventor. Examiner believes that the Serial No. should be 09/502,197.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1-4, 6-21 and 40-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Sloo, U.S. Patent No. 5,895,450.

As per **Claim 1**, Sloo discloses a method of automated alternative dispute resolution, comprising

- automatically receiving a communication from a party, the communication being a portion of a pre-defined dispute resolution process (Col. 1, lines 55-62; Col. 3, lines 12-21; Col. 4 line 60-Col. 5 line 2; Col. 12, lines 47-61; Col. 13, lines 50-53),
- processing the communication (Col. 5, lines 20-28 and 37-46; Col. 6, lines 35-40 and 47-54),
- providing the processed communication to the party (Col. 7 line 55-Col. 8 line 4; Col. 9, lines 10-13).

As per **Claim 2**, Sloo further discloses wherein the processing comprises preparing a summary based on information in the communication received from the party (Col. 5, lines 3-8; Col. 6, lines 33-40)

As per **Claim 3**, Sloo further discloses wherein the processing comprises finding similar completed cases based on information in the communication received from the party (Col. 9, lines 64-67; Col. 10, lines 13-22; Col. 11, lines 24-36).

As per **Claim 4**, Sloo further discloses wherein the processing comprises suggesting a resolution for a dispute described in the communication received from the party (Col. 8, lines 43-46; Col. 9, lines 57-63; Col. 10, lines 13-18 and 22-28; Col. 11, lines 22-36)

As per **Claim 6**, Sloo discloses a method of automatically providing a comment relating to an automated alternative dispute resolution process, comprising

- determining that an action or inaction by a subject has occurred in a pre-defined dispute resolution process (Col. 6, lines 15-32; Col. 11, lines 62-65), and
- automatically preparing a comment about the subject's action or inaction (Col. 6, lines 20-24; Col. 11 line 62-Col. 12 line 5).

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As per **Claim 7**, Sloo further discloses that the subject is a merchant (Col. 3, lines 1-7).

As per **Claim 8**, Sloo further discloses wherein the comment is related to a previously provided comment (Col. 6, lines 20-24; Col. 11 line 62-Col. 12 line 5).

As per **Claim 9**, Sloo discloses a method of automatically preparing a case record for an alternative dispute resolution process, comprising:

- collecting communications between an automated dispute resolution system and at least one of the parties to the dispute (Col. 1 line 65-Col. 2 line 13; Col. 3, lines 50-53; Col. 4, lines 61-67; Col. 6, lines 47-60), and

- automatically summarizing the collection of communications (Col. 2, lines 7-13; Col. 5, lines 3-11).

As per **Claim 10**, Sloo further discloses appending relevant laws to the case record (Col. 16, lines 45-50).

As per **Claim 11**, Sloo further discloses appending comments about at least one of the parties to the dispute to the case record (Col. 6, lines 20-24; Col. 11 line 62-Col. 12 line 5).

As per **Claim 12**, Sloo further discloses appending a suggested action to the case record (Col. 8, lines 43-53; Col. 10, lines 35-40).

As per **Claim 13**, Sloo further discloses comprising receiving approval from the party to send the processed communication to another party (Col. 5, lines 20-29).

As per **Claim 14**, Sloo further discloses sending the processed communication to the other party (Col. 5, lines 37-46).

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As per **Claim 15**, Sloo further discloses presenting the summary and the collection of communications as the case record to a dispute resolver (Col. 8, lines 33-40; Col. 9, lines 57-63; Col. 10, lines 13-21).

As per **Claim 16**, Sloo discloses a method of facilitating dispute resolution between a complainer and a complainee, comprising:

- automatically preparing a comment relating to a procedural status of a dispute between the complainer and the complainee (Col. 2, lines 61-65; Col. 4, lines 52-60; Col. 5, lines 30-37; Col. 6, lines 17-32, Col. 11 line 62-Col. 12 line 5), and
- appending the comment to a comment file of at least one of the complainer and the complainee ( Col. 4, lines 52-60; Col. 5, lines 30-37; Col. 6, lines 17-32; Col. 11 line 62-Col. 12, line 5).

As per **Claim 17**, Sloo further discloses automatically preparing a subsequent comment relating to a subsequent procedural status of the dispute, and updating the at least one file to include the subsequent comment (Col. 11 line 62-Col. 12 line 5).

As per **Claim 18**, Sloo further discloses automatically preparing a summary of the dispute (Col. 2, lines 7-13; Col. 5, lines 3-11).

As per **Claim 19**, Sloo further discloses enabling at least one of the complainer and the complainee to add a manually prepared comment to a comment record of the other of the complainer and complainee (Col. 10, lines 7-13 and 34-39).

As per **Claim 20**, Sloo further discloses wherein the comment file is publicly accessible (Col. 5, lines 3-11; Col. 11 line 62-Col. 12 line 5).

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As per **Claim 21**, Sloo disclose a method of facilitating dispute resolution between a complainer, a complainee and a third party, comprising:

- sending a complaint from the complainer to the complainee (Col. 5, lines 37-46)
- receiving a response from the complainee indicating that the complaint should be presented to the third party (Col. 8, lines 5-9), and
- automatically sending the complaint to the third party (Col. 8, lines 33-40).

As per **Claim 40**, Sloo discloses a system for automated alternative dispute resolution, comprising:

- an interface for automatically receiving a communication from a party, the communication being a portion of a pre-defined dispute resolution process (Col. 3, lines 12-30; Col. 4 line 60-Col. 5 line 2),
- a processor for processing the communication (Col. 3, lines 18-63; Col. 5, lines 37-46; Col. 6, lines 47-54), and
- an interface for providing the processed communication to the party (Col. 3, lines 18-63; Col. 7 line 55-Col. 8 line 4; Col. 9, lines 10-13).

As per **Claim 41**, Sloo discloses a system for automatically providing a comment relating to an automated alternative dispute resolution process, comprising:

- a processor for determining that an action or inaction by a subject has occurred in a pre-defined dispute resolution process (Col. 3, lines 18-63; Col. 6, lines 15-32; Col. 11, lines 62-65), and
- automatically preparing a comment about the subject's action or inaction (Col. 6, lines 20-24; Col. 11 line 62-Col. 12 line 5).

As per **Claim 42**, Sloo discloses a system for automatically preparing a case record for an alternative dispute resolution process, comprising:

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- an interface for collecting communications between an automated dispute resolution system and at least one of the parties to the dispute (Col. 3, lines 18-63; Col. 3, lines 50-53; Col. 4, lines 61-67; Col. 6, lines 47-60), and
- a processor for automatically summarizing the collection of communications (Col. 3, lines 18-63; Col. 2, lines 7-13; Col. 5, lines 3-11).

As per **Claim 43**, Sloo discloses a system for facilitating dispute resolution between a complainer and a complainee, comprising:

- a processor for automatically preparing a comment relating to a procedural status of a dispute between the complainer and the complainee (Col. 3, lines 18-63; Col. 2, lines 61-65; Col. 4, lines 52-60; Col. 5, lines 30-37; Col. 6, lines 17-32, Col. 11 line 62-Col. 12 line 5), and
- for appending the comment to a comment file of at least one of the complainer and the complainee ( Col. 4, lines 52-60; Col. 5, lines 30-37; Col. 6, lines 17-32; Col. 11 line 62-Col. 12, line 5).

As per **Claim 44**, Sloo discloses a system for facilitating dispute resolution between a complainer, a complainee and a third party, comprising:

- an interface for sending a complaint from the complainer to the complainee (Col. 3, lines 18-63; Col. 5, lines 37-46)
- for receiving a response from the complainee indicating that the complaint should be presented to the third party (Col. 8, lines 5-9), and
- a processor for sending the complaint to the third party (Col. 8, lines 33-40).

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:



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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450.

As per Claim 5, Sloo discloses that the system is programmed to provide public access to the data records to permit viewing of the complaints, responses, and settlements for allowing the other users to gauge the conduct of the subjects and to encourage the subjects to respond to the complaints in a timely and satisfactory manner, however, fails to disclose wherein the processing comprises automatically setting a time interval for a response. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include setting a time limit for a response by the subject in view of the suggestion by Sloo that subjects should be encouraged to respond in a timely manner. The motivation for imposing a time limit for a response to a complaint would be to speed up the process to a resolution.

8. Claims 24-27, 31-37 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 in view of "Online Mediation Offered for Resolving E-Commerce Disputes", Press Release, Online Resolution, 23 March 2000 [hereinafter referred to as Online Resolution].

As per Claims 24 and 45, Sloo discloses a method of facilitating dispute resolution between a complainer and a complaine, comprising automatically preparing a summary of the complaint of a complainer and incorporating the summary in a complaint (Col. 5, lines 3-11). Sloo, however, does not specifically teach that the summary includes the emotional state of the complainer. Sloo does teach the use of an automatic decision maker option wherein participant behavior is monitored in certain situations and outcomes over time; and artificial intelligence techniques may be used to predict an outcome based

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on what it has learned about behavior, situations and their outcome (Col. 10, lines 54-67). Online Resolution discloses an alternative dispute resolution method conducted online wherein participants fill out a form detailing their grievance and submit it by e-mail. Online Resolution suggests that emotions are a big part of the mediation process. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint. Online Resolution provides motivation by indicating that just as body language matters in negotiation, small details make a big difference in online mediation and indicating that feedback has shown that participants prefer polite, formal language (Page 2). Providing the emotional state of the complainer would enable the complainees to get a better understanding of the complainers state of feeling and would enable the complainees to more effectively respond to the complaint.

As per **Claim 25**, Sloo discloses that the program prompts the user to enter information concerning the complaint (Col. 4, lines 60-67) and further teaches the use of conventional input collection methods such as questionnaires, cameras, tape recorders to gather information (Col. 10, lines 7-12), however, fails to specifically disclose wherein the automatically preparing is based on responses of the complainer to a form including fields for entering specified facts and at least one field for entering free-form text. Online Resolution discloses that the complainer enters their complaint into the system by filling out a form and submitting it (Page 1). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo to include a form with various fields to allow the complainer to enter information regarding the complaint. The motivation would be to provide a convenient means for the complainer to enter information into the system. It is typical for any automated system to provide forms for entering textual information.

As per **Claim 26**, Sloo further discloses the use of input collection methods such as questionnaires, cameras, tape recorders to gather information (Col. 10, lines 7-12) which are associated with the complaint.

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As per **Claim 27**, Sloo further discloses sending the complaint to the complainee (Col. 5, lines 37-46).

As per **Claim 31**, Sloo further discloses:

- automatically preparing a comment relating to a procedural status of a dispute between the complainer and the complainee (Col. 2, lines 61-65; Col. 4, lines 52-60; Col. 5, lines 30-37; Col. 6, lines 17-32, Col. 11 line 62-Col. 12 line 5), and
- appending the comment to a comment file of at least one of the complainer and the complainee ( Col. 4, lines 52-60; Col. 5, lines 30-37; Col. 6, lines 17-32; Col. 11 line 62-Col. 12, line 5).

As per **Claim 32**, Sloo further discloses wherein the comment file is publicly accessible (Col. 5, lines 3-11; Col. 11 line 62-Col. 12 line 5).

As per **Claim 33**, Sloo further discloses automatically detecting when the complainer and complainee are in agreement about a dispute resolution (Col. 7, lines 1-28).

As per **Claim 34**, Sloo further discloses automatically checking whether at least one of the complainer and complainee complied with an agreement for dispute resolution, the agreement formed in response to the complaint (Col. 11 line 38-Col. 12 line 5).

As per **Claim 35**, Sloo further discloses automatically advising at least one of the complainer and complainee about outcomes of other disputes (Col. 9, lines 64-67; Col. 10, lines 13-22; Col. 11, lines 22-36).

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As per **Claim 36**, Sloo further discloses automatically preparing a summary of a dispute between the complainer and complainee (Col. 2, lines 7-13; Col. 5, lines 3-11).

As per **Claim 37**, Sloo discloses that the system is programmed to provide public access to the data records to permit viewing of the complaints, responses, and settlements for allowing the other users to gauge the conduct of the subjects and to encourage the subjects to respond to the complaints in a timely and satisfactory manner (Col. 2, lines 7-20), however, fails to disclose wherein the summary includes non-responsiveness or tardiness of at least one of the complainer and complainee in responding by a deadline. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include in the summary a non-responsiveness or tardiness of the user in view of the suggestion by Sloo that subjects should be encouraged to respond in a timely manner. The motivation for including the non-responsiveness or tardiness of a user in the record would be to encourage the parties to resolve the dispute in a timely manner and avoid a negative public reputation (Col. 2, lines 7-20).

9. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 and "Online Mediation Offered for Resolving E-Commerce Disputes", Press Release, Online Resolution, 23 March 2000 as applied to claim 24 above, and further in view of McFarland, U.S. Patent No. 6,154,753.

As per **Claim 28**, Sloo and Online Resolution disclose a method for dispute resolution, however, the combination of Sloo and Online Resolution fail to specifically disclose automatically docketing the complaint for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the methods of Sloo and Online Resolution and include the ability to docket the

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complaint for follow up action as taught by McFarland. The motivation for doing this would be to ensure that the complaint is resolved or at least responded to within a certain period of time that is appropriate to the complainer or complainee.

As per **Claims 29-30**, Sloo and Online Resolution disclose a method for dispute resolution, however, the combination of Sloo and Online Resolution fail to specifically disclose automatically sending at least one reminder of a deadline for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). McFarland further teaches the use of e-mail to provide for an automatic notification capability to notify the operator that follow up with the customer is necessary in order to resolve the complaint (Col. 17 line 61-Col. 18 line 3). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the methods of Sloo and Online Resolution and include the ability to provide e-mail reminders to the complainee for follow up action as taught by McFarland. The motivation for doing this would be to ensure that the complainee is reminded that there are complaints that have not been resolved and ensures that they get resolved or at least responded to within a certain period of time that is appropriate to the complainer or complainee.

#### ***Allowable Subject Matter***

10. Claims 22-23 and 38-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- Thiessen discloses a system with graphical interfaces that are used by each party involved in the negotiation process to input information pertaining to their individual preferences on each issue to be negotiated and the system encourages parties to make a proposal or identify at least one alternative solution to the problem that their party would find acceptable
- Griffeth et al disclose a method wherein an agent generates a proposal acceptable to it and transmits the proposal to another agent. If the receiving agent determines if the proposal is acceptable and if not generates a counterproposal and the process continues until a proposal acceptable to both parties is found
- Rosen discloses a method for electronic merchandise dispute resolution wherein trusted agents are used to resolve disputes
- Wamsley et al disclose a personal injury claim management system and teach the use of an alternative dispute resolution process when there is difficulty in settling a claim
- Kesel discloses an apparatus for collecting, analyzing and reporting information on goods and services offered for sale to customers by providers
- "SquareTrade Launches New Consumer Protection Tool; First Online Dispute Resolution Pilot on eBay" discloses a structured and unbiased multi-step process to guide disputing parties to a resolution, which is conducted completely online and wherein a mediator is assigned to work with the two parties to develop a fair, agreeable settlement
- Dennehy, "New Online Mediation Service" discloses an online mediation service wherein users visit a web site to fill out a form describing their dispute and the site contacts the other party to see if they are willing to participate in mediation. If both sides agree, a mediator is assigned to help the parties reach an agreement.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

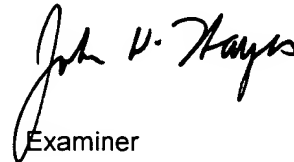
The Fax phone number for the **UNOFFICIAL FAX** for the organization where this application or proceeding is assigned is (703) 746-7240 (for informal or draft communications, please label "PROPOSED" or "DRAFT").

The Fax phone number for the **OFFICIAL FAX** for the organization where this application or proceeding is assigned is (703) 746-7239 (for formal communications intended for entry).

The Fax phone number for **AFTER-FINAL** communications where this application or proceeding is assigned in (703) 746-7238.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

John W. Hayes



Examiner

12 October 2001